

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

Applicants respectfully thank the Examiner for holding an interview with Applicants' representative on May 20, 2009. During the interview, the Examiner indicated that amending the claims as shown in this response should overcome the present rejections.

If the Examiner has any further concerns or questions, the Examiner is respectfully requested to contact the undersigned at the telephone number noted below.

I. CLAIM STATUS AND AMENDMENTS

Claims 1-16 were pending in this application when last examined.

Claims 1-12 were examined on the merits and stand rejected.

Claims 13-16 were withdrawn as non-elected subject matter. Applicants reserve the right to file a Continuation or Divisional Application on any non-elected subject matter. Further, Applicants respectfully reserve the right to rejoin claims upon allowance of the elected subject matter.

Claims 1 and 10 are amended. Support for such amendments can be found on page 9, lines 9-21 of the specification as filed.

No new matter has been added.

II. INFORMATION DISCLOSURE STATEMENT

The Applicants respectfully thank the Examiner for initialing the PTO-1449 forms submitted September 1, 2006, September 28, 2007 and January 28, 2007. It is noted that references designated AJ and AK in the PTO-1449 form of September 1, 2006 were not initialed.

It is noted that in the IDS accompanying this form it is indicated that references designated AA and AB, both of which are in English, were indicated as corresponding to references designated AJ and AK. It is further noted that an English language search report citing references designated AJ and AK was also submitted.

Therefore, Applicants note that they have complied with the rules regarding disclosure of non-English references and therefore references designated AJ and AK should be considered.

In this regard, attached herewith is a copy of the noted 1449 form. The Examiner is respectfully requested to return an initialed copy of such with the next Office Action.

III. 35 U.S.C 101 REJECTION

In item 4 on page 2 of the Office Action, claims 1-12 were rejected under 35 U.S.C. 101 for claiming non-statutory subject matter.

Claims 1 and 10 have been amended to recite “isolated” as suggested by the Examiner.

Thus, this rejection is overcome.

IV. ENABLEMENT REJECTION

In item 6 on pages 3-5 of the Office Action, claims 1-12 were rejected under 35 U.S.C. 112, first paragraph, for failing to meet the enablement requirement.

Applicants respectfully traverse this rejection as applied to the amended claims.

Without acquiescence to the correctness of the Examiner position and to expedite allowance, claims 1 and 10 have been limited to homologues of SEQ ID NO: 2 which are SEQ ID NO: 4 or SEQ ID NO: 6 with at least one mutation in the noted amino acids.

As noted during the interview, Figures 1 and 2 illustrate an alignment between SEQ ID NOS: 2, 4 and 6. Such alignment indicates to a person of skill in the art the high similarity between these three SEQ ID NOS. Thus, a person of skill in the art would expect similar results for insertion of the claimed mutations in SEQ ID NOS: 4 and 6 as shown for SEQ ID NO: 2.

Further, as noted on page 7, line 23 to page 10, line 13, of the specification, it is well within routine experimentation to evaluate whether or not the claimed homologues have β -fructofuranosidase activity, for example, by the method described in Example 2. Further, specific mutations can be recognized in the claimed homologue by aligning the amino acid of SEQ ID NO: 2 with the homologues by such widely used analytical software as BLAST. Thus, Applicants respectfully suggest that the invention of the

amended claims can be practiced without undue experimentation taking into account the teachings in the specification and knowledge in the art.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is authorized to charge any deficiency or to credit any overpayment associated with this communication to Deposit Account No. 23-0975, with the EXCEPTION of deficiencies in fees for multiple dependent claims in new applications.

Respectfully submitted,

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